

Not designated for publication
 ARKANSAS COURT OF APPEALS
 D.P. MARSHALL JR., Judge

DIVISION I

CACR06-452

21 February 2007

DEVIN WILLIAM WESTON
APPELLANT

AN APPEAL FROM THE
GARLAND COUNTY CIRCUIT COURT [CR2004-28IV] v.

STATE OF ARKANSAS
APPELLEE

HONORABLE THOMAS LYNN
WILLIAMS, JUDGE

AFFIRMED

D.P. MARSHALL JR., Judge

The circuit court revoked Devin W. Weston's probation because it found Weston had been in the presence of a person with a firearm and had failed to pay court costs and fees. Both of these obligations were among his probation conditions. The court sentenced Weston to six years in prison on the underlying offense, theft by receiving property worth more than \$500.00. Weston appeals, challenging the sufficiency of the evidence for the revocation and the severity of his sentence.

Weston focuses his argument on the circumstances surrounding his alleged violation of the firearms condition. We do not reach that issue. Weston offers no real

argument about why the circuit court erred on the nonpayment issue. It did not. Weston admitted that he never paid his court costs or the fee for his DNA test. He testified that “I really haven’t had the money” and “I just started a new job.” These general circumstances, on which Weston did not elaborate, do not excuse his nonpayment. *Compare Baldridge v. State*, 31 Ark. App. 114, 116–18, 789 S.W.2d 735, 737–38 (1990)(excusing nonpayment based on detailed proof of extraordinary circumstances). During his probation, Weston worked at Wal-Mart and operated heavy equipment in Texas. He never asked his probation officer for more time to pay. He made no partial payments. The preponderance of the evidence thus supports the circuit court’s revocation of Weston’s probation for his unexcused failure to satisfy the payment condition. *Gossett v. State*, 87 Ark. App. 317, 319, 191 S.W.3d 548, 549–50 (2004).

Weston also argues that his six-year sentence is excessive. He did not preserve this issue for appeal because he failed to raise it below and his sentence is not illegal on its face. *Timmons v. State*, 81 Ark. App. 219, 224, 100 S.W.3d 52, 55–56 (2003). In any event, Weston’s sentence is near the mid-point of the statutory range for theft by receiving property worth more than \$500.00. Ark. Code Ann. § 5-36-106 (Repl. 2006)(degree of offense); Ark. Code Ann. § 5-4-401(Repl. 2006)(sentencing range). The sentence imposed by the circuit court was therefore neither prejudicial nor excessive. *Buckley v. State*, 349 Ark. 53, 64, 76 S.W.3d 825, 832 (2002).

Affirmed.

HEFFLEY, J., agrees.

HART, J., concurs.